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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,406	03/21/2007	Jean-Marc Pardonge	Q94646	1674
23373 7590 03/02/2010 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037				
EXAMINER				
WOOD, JONATHAN K				
ART UNIT		PAPER NUMBER		
3754				
NOTIFICATION DATE		DELIVERY MODE		
03/02/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/578,406

Applicant(s)

PARDONGE ET AL.

Examiner

JONATHAN WOOD

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 March 2007 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/GS-08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date 12/22/2009

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the valve element being integral with the pump body and the shutter (claim 12) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 9-13 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 recites the limitation "said retaining ring" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "wherein said pump comprises the dispensing head, the pump body, the shutter, the elastic element, and the piston, a retaining ring and a plunger tube..." in lines 1-3. A majority of these elements have already been defined previously and it is therefore confusing to say the pump comprises these elements again in this claim. It is recommended to amend this claim to read "Pump according to claim 1, wherein the pump further comprises a retaining ring and a plunger tube, and wherein the dispensing head..." or something similar to avoid the confusion.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3, 7-9, and 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent no. 6,209,760 B1 to *Fuchs* (*Fuchs*).

Fuchs shows a pump comprising a pump body (30), a pump chamber (21), a piston (17) sliding in the pump chamber, a dispensing orifice (20), and a shutter (45) embodied in one piece with the pump body (Figure 1, col. 3, ll. 64-66) forming an outlet valve at the dispensing orifice (col. 4, ll. 34-35), the shutter being moveable between an open and closed position of the dispensing orifice, wherein the pump has only one elastic element (31, 33, and 35, col. 3, line 41) to bring the piston back to its rest position and to drive the shutter to its closed position (col. 6, ll. 48-50).

Regarding claim 3, *Fuchs* shows the pump comprising a retaining ring (11).

Regarding claim 7, *Fuchs* shows the pump comprising a dispensing head (50) including the dispensing orifice.

Regarding claim 8, *Fuchs* shows the pump body placed inside the dispensing head (Figure 1).

Regarding claim 9, *Fuchs* shows the dispensing head connected onto the retaining ring and stops (61 and 77) defining the rest position of the pump.

Regarding claims 15 and 16, *Fuchs* shows the pump of claim 1 snap-fitted (col. 6, ll. 9-10) to a tank (29) and a gasket (75) interposed in between.

6. Claims 1-3, 5-9, 14-15, and 17-18 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 4,640,443 to *Corsette* (*Corsette*).

Corsette shows a pump comprising a pump body (36, col. 3, line 46), a pump chamber (27), a piston (24) sliding in the pump chamber, a dispensing orifice (42), and a shutter (49) embodied in one piece with the pump body (Figure 1) forming an outlet valve at the dispensing orifice, the shutter being moveable between an open and closed position of the dispensing orifice (col. 5, ll. 3-26), wherein the pump has only one elastic element (28) to bring the piston back to its rest position and to drive the shutter to its closed position (col. 3, ll. 49-53).

Regarding claim 2, *Corsette* shows the spring is away from all contact with the fluid product (Figure 1).

Regarding claim 3, *Corsette* shows the pump comprising a retaining ring (12).

Regarding claim 5, *Corsette* shows the retaining ring embodied in one piece with an inlet valve seat (22) of the pump chamber (Figure 1).

Regarding claim 6, *Corsette* shows the piston embodied in one piece with the retaining ring (Figure 1).

Regarding claim 7, *Corsette* shows the pump comprising a dispensing head (31) including the dispensing orifice.

Regarding claim 8, *Corsette* shows the pump body placed inside the dispensing head (Figure 1).

Regarding claim 9, *Corsette* shows the dispensing head connected onto the retaining ring and stops (38 and 41) defining the rest position of the pump.

Regarding claim 14, *Corsette* shows the pump chamber is immediately upstream of the dispensing orifice (Figure 1), the shutter forming an outlet valve of the pump chamber (col. 5, line 6)

Regarding claim 15, *Corsette* shows the pump of claim 1 anchored to a tank (container, col. 3, line 8).

Regarding claim 17, *Corsette* shows the pump chamber is inside the body (Figure 1).

Regarding claim 18, *Corsette* shows the elastic element is a spring (28).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 4, 10-11, 13 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Corsette* in view of US Patent No. 7,014,069 B2 to *Crosnier et al.* (*Crosnier*).

Corsette shows all aspects of applicant's invention as set forth in claims 1 and 3, but does not disclose the plunger tube 19 embodied in one piece with the retaining ring. However, *Crosnier* shows a pump with a retaining ring (1) and plunger tube (3) embodied in one piece. It would have been obvious to one having ordinary skill in the art at the time of the invention, under the teachings of *Crosnier*, to have made the retaining ring 11 and plunger tube 19 of *Corsette* integral with one another in order to simplify the assembly process of the pump. The resulting combination would result in the pump of *Corsette* as modified by *Crosnier* having a part forming the dispensing head (31), a part forming the pump body and shutter (36), a part forming the spring (38), and a part forming the piston, retaining ring, and plunger tube (11 with newly integrated plunger tube 19).

Regarding claims 11 and 13, *Corsette* as modified by *Crosnier* shows the piston, retaining ring and plunger tube embodied in one piece with an inlet valve seat (22) of the pump chamber (Figure 1), which interacts with a valve element (21) which is separate from the pump body (Figure 1).

Regarding claim 19, *Corsette* as modified by *Crosnier* shows the valve element is a ball (21).

10. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Corsette* in view of *Crosnier* as applied to claim 11 above, and further in view of US Patent No. 7,182,226 B2 to *Mbonyumuhire* (*Mbony*).

Corsette as modified by *Crosnier* shows all aspects of applicant's invention as set forth in claim 11, but does not disclose the inlet valve element being integral with the pump body and shutter. However, *Mbony* shows a pump which utilizes an inlet valve element (12) which is integral with the moving portion of the pump. It would have been obvious to one having ordinary skill in the art at the time of the invention, under the teachings of *Mbony*, to have replaced the ball valve 21 of *Corsette* as modified by *Crosnier* with a valve element like that of *Mbony* integral to the moving portion of the pump (in this case it would be the pump body) in order to reduce the number of working parts in the device.

Response to Arguments

11. Applicant's arguments filed 12/14/2009 have been fully considered but they are not persuasive.

On page 12, applicant first argues that *Fuchs* does not disclose that the body (30) is embodied in one piece with the shutter (45), as recited in claim 1. Examiner points to col. 3, ll. 64-66 of *Fuchs* which states, "The downstream end of body 30...forms a dimensionally rigid valve element 45..." This statement implies that the body 30 and shutter 45 are in fact one piece. Applicant then argues that *Fuchs* fails to disclose the limitation "the pump chamber is formed inside the pump body, with the

piston sliding inside the pump body" of claim 1. However, this limitation does not appear in claim 1 and therefore applicant's argument is moot.

On page 14, applicant argues that *Corsette* does not disclose the element 49 interacting with the discharge orifice 43. However, in the rejection, examiner named the discharge orifice as element 42 and not as element 43. The term orifice simply means "opening" and when modified by discharge implies fluid is discharged through the opening. As such, either 43 or 42 can be considered a "discharge orifice" since fluid is moved through both openings. Examiner chose to call 42 the discharge orifice and therefore contends that the shutter 49 does in fact interact with the discharge orifice as seen in Figure 1 of *Corsette*.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JONATHAN WOOD whose telephone number is (571)270-7422. The examiner can normally be reached on Monday through Friday, 7:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571)272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JKW/
Examiner, Art Unit 3754

/Kevin P. Shaver/
Supervisory Patent Examiner, Art Unit 3754

